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RUSSIAN LAW CODES IN THE 19th AND 20th CENTURY AND WOMEN: FROM GAPS AND INEQUALITIES TO LEGAL RECOGNITION AND LEGAL EQUALITY

The article is devoted to the main problems in overcoming the gaps in women's rights and establishing the principle of equality of the sexes in Russia in the 19th and 20th century. Historically, the legal status of women in Russia covered only marriage, family and inheritance relations. However, during the period covered by this article, the legislator ensured the political rights of women and recognized women as independent subjects of public law. The problem of the legal status of women in Russia has recently acquired not only theoretical, but also practical significance. The study of this problem was carried out relying not only on scientific articles, but also on legal sources and historical documents, such as the Collection of laws and orders of the government of Saint-Petersburg, Decree of the Provisional Government of July 20 1917 etc. The author comes to the conclusion that the evolutionary path of women's rights in Russia had its own identity, while taking into account the experience and legislative practice of other countries.

Key words: *Law codes. – Women's rights. – Legal evolution. – Russian legal history. – Legal equality.*

1. THE RELEVANCE OF STUDYING GAPS IN WOMEN'S RIGHTS IN RUSSIA OF THE 19th – 20th CENTURY

This topic, researching the relationship between Russian Law Codes and women, is relevant due to the problem of the female legal status in the 19th and 20th century in both theoretical and practical terms. The chron-

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ological framework of the study was determined by the evolution of the legal status of women in Russia in that period. The 19th century is the period in which the legal status of women is shaped in the Russian Law Codes, especially due to the Russian lawmaking in the 1860s. The equality of women and men was legalized in the 20th century in the Law Codes of the Soviet Russia.

The female legal status had a shape of its own for a long time in pre-revolutionary Russia. The specificity of the Russian women's status lay not only in the actual, but also the legal inequality of women and men. The actual inequality of women and men arose historically and was fixed initially in the norms of customary law, and then received legal form in the laws. The legal status of Russian women had been formed under certain influences of European legislation, which were based on the provisions of Roman law.

2. THE ROLE OF CUSTOMS IN SHAPING WOMEN'S RIGHTS

Legal customs had a significant impact on the formation of the concept of the female legal status in Russia in the 19th and 20th century. Most Russian women lived in villages at the time and their lives were guided by the rules of customary law. Usually, the legal position of women was characterized by several distinctive features:

- the right to complain to the court of the husband's behavior;
- severe sanctions that could be applied to wives who did not want to live together with their husbands;
- the possibility of separation by mutual consent.[1]

The property rights of peasants, in contrast to other estates, were determined not so much by kinship as by their participation in the management of the joint household economy (. Nevertheless, it should be noted that the legislation affected the legal consciousness of the peasants. By the beginning of the 20th century, the peasants' views on the relationship between spouses, the position of women in family and marriage, and women's property rights largely coincided with the requirements of the law.

3. EVOLUTION OF WOMEN'S RIGHTS IN THE 19th CENTURY

A radical change in the evolution of women's rights in Russia occurred in the 19th century. In 1812, the first Russian women's organization

1 Светлана Вячеславовна Ворошилова, *Правовое положение женщин в России в 19 – в начале 20 века*, Саратов 2011, 6.

– the "Women's Patriotic society" – appeared.[2] In the 1860s, serious legislative and judicial reforms were carried out in Russia. The Code of Laws of the Russian Empire was supplemented by volume XVI, which included the Judicial Statutes of 1864.

Certain European legislative acts, such as the Civil Code of Napoleon (1804), The General Civil Code of the Austrian Empire (1811), the Saxon Civil Code (1863), and the Civil Code of the German Empire (1896), held particular importance in the evolution of the Russian civil status of women in the 19th and 20th century. Some scholars (Rennekampf N. K. (*Реннекамӣф Н. К.*), Speranskij M. M (*Сӣеранский М. М.*), etc.) have noted the significant influence of French legislation on the legal status of women in Russia in 19th century.[3]

Russian reforms in the second half of the 19th century had an impact on the legal status of women. According to the Russian Laws (1882, 1885), working in factories, plants and manufactories was prohibited for children under the age of 12. There was legislative protection of children and women in general: night work for children and women was prohibited; special benefits for pregnant women were established. But at the same time, the exploitation of cheaper female labor remained.

3.1. Women's Right to Education in the 19th Century

Did women have the right to receive secondary and higher education in the 19thcentury? In 1863, a new University Charter was adopted.[4] It extended to five Russian universities: Moscow University, St. Petersburg University, Kazan University, Kharkiv University and Kiev University. According to the new University Charter, women did not get the right to enter universities, but the foundation of women's higher education was laid at this time. A number of higher education courses for women *(Высшие женские курсы)* were opened in Russia. The Higher Women's Courses of Professor V.I. Gerye (*В.И. Герье*) in Moscow and the Bestuzhev's Courses in St. Petersburg were the most famous ones.[5]

The problem of the secondary women's education was no less difficult. In 1860, a "Regulation" on women's schools was adopted, which allowed for the creation of general education institutions of an open type for upcoming

2 Наталья Львовна Пушкарёва, "Феминизм в России. Адам и Ева.", *Альманах ӷендерной исӣории* 5/2003, 167–188.

3 Мария Владимировна Захарова, *О французских корнях российскоӷо ӣрава: исӣорический анализ*, Журнал Российского права, 2016, 8.

4 Андрей Юрьевич Дворниченко, *Российская исӣория с древних времён до ӣадения самодержавия*, Издательство «Весь мир», Москва 2010, 736–737.

5 Konstantin Bestuzhev-Ryumin (Константин Бестужев-Рюмин), a Professor at Saint Petersburg University, initiated these courses.

students. Women's schools could be opened in all provincial Russian cities, where financial opportunities, both public and private, could be found for this purpose. The finances for this purpose, as always, were low.

3.2. Formation of Doctrinal Ideas about the Legal Status of Russian Women in the Second Half of the 19th Century

The first legal literature dealing with the legal status of Russian women appeared in the second half of the 19th century. It was the result of the rise of the social movement in Russia at the turn of 1850–1860. The main problems it addressed concerned the status of women in family and marriage, women's inheritance rights, as well as certain issues of civil and criminal law. There was a critical analysis of articles of the Code of Laws of the Russian Empire in the papers of Russian lawyers. Russian lawyers were comparing the articles of the Code of Laws of the Russian Empire with foreign legislation. A new stage in the development of critical legal literature on the legal status of women in Russia is associated with the projects of the new Civil Code. They included legal provisions that expand women's rights for the first time in the history of Russian law.

The idea of equalizing women's rights with men's was actively supported in the Russian society in the 70–90s of the 19th century. I. A. Pokrovsky (*И.А. Покровский*), A. YA. Efimenko (*А.Я. Ефименко*), A. I. Zagorovsky[6] (*А.И. Заīоровский*), I. V. Hessen[7] (*И. В. Гессен*), M. N. Gernet[8] (*М.Н.Гернеш*) and other researchers were interested in legalizing the equality of the sexes. They formulated the concept of the so-called "women's law" in numerous special and general works on civil and criminal law. This problem was also studied by figures of a later period, like A. G. Goichbarg[9] (*А.Г. Гойхбарī*) and M. YA. Pergament[10] (*М.Я. Перīаменш*).

Features of the legal status of women were analyzed by P. S. Efimenko[11] (*П.С. Ефименко*), N. Kostrov[12] (*Н. Косшров*), V. V. Ivanov[13] (*В.В.*

6 Александр Иванович Загоровский, *Курс семейноīо īрава*, Одесса 1909.

7 Иосиф Владимирович Гессен, "Влияние законодательства на положение женщин", *Право*, 51/1908.

8 Михаил Николаевич Гернет, *Женское равноīравие и Уīоловный закон*, место не установлено 1916.

9 Александр Григорьевич Гойхбарг, *Сравнишельное семейное īраво*, Москва 1927.

10 Александра Иосифовна Пергамент, *Совешское законодашельсшво о īравах женщин*, Москвва 1962.

11 Петр Саввич Ефименко, *Сборник народных юридических обычаев Арханīельской īубернии*, Санкт-Петербург 1873.

12 Николай Алексеевич Костров, *Юридические обычаи кресшьян-сшарожилов Томской īубернии*, Томск 1876.

13 Вячеслав Всеволодович Иванов, *Обычное īраво кресшьян Харьковской īубернии*, Харьков 1898.

Иванов), A. YA. Efimenko[14] and others. Describing the customs that existed in various provinces of Russia, the researchers noted the features of the common legal status of women in the examined period. The fundamental work of S.V. Pakhman (*С. В. Пахман*), "Ordinary civil law in Russia", occupied a special place among the studies on customary law. This work contains a complete description of the civil law institutions according to the peasant customary rules of various localities of the Russian Empire. S. V. Pakhman argued that, according to customs, as well as by legislation, the most important basis for the right of inheritance is kinship. A feature of the legal status of the peasant woman that he singled out as important is the lack of a strong connection with the family of origin, which explained her removal from inheritance if there were male heirs.[15]

A. I. Zagorovsky, YA.A. Kantorovich (*Я.А.Канторович*), I. I. Yanzhul (*И.И. Янжул*), and A. Fedorov (*А. Федоров*) were interested in the need for legal protection of motherhood and childhood. I. I. Yanzhul, one of the first factory inspectors, analyzed the law of 1882 prohibiting work in factories, plants and manufactories for children under 12 years, and noted the importance of legislative protection of labour not only for children, but for women too. He also advocated for the prohibition of night work for women and special benefits for pregnant women.[16]

Between 1885 and 1890, A. M. Yevreinova (*А.М. Евреинова*), the first Russian woman who had received the degree of doctor of law, published the journal "*Severny Vestnik*" ("Northern Messenger") in St. Petersburg. She was interested in various legal issues, particularly the problem of the female legal status. As the author of papers "Brief outline of women's rights in the family" and "On the equation of women's rights in inheritance", A. M. Evreinova actively advocated for the expansion of women's hereditary rights in Russia.

At the beginning of the 20th century, the legal status of women became the subject of special studies by legal historians and legal practitioners, due to the need to adopt a new Civil Code and the enforcement of the new Criminal Code in 1903.

The preparatory works of the State Duma and the State Council in the beginning of the 20th century contain important analytical material. These documents allow us to determine the reasons for the lack of equal rights for women and men in Russian Law Codes at that period. During

14 Александра Яковлевна Ефименко, *Исследования народной жизни. Обычное право,* Москва 1884.

15 Семен Викентьевич Пахман, *Обычное гражданское право в России: Юридические очерки,* тома 2, Санкт-Петербург 1877–1879.

16 Иван Иванович Янжул, *Очерки и исследования: сборник статей по вопросам народного хозяйства, политики и законодательства*, том 1, Москва 1884, 348–397.

the discussion on the Bills on civil equality, on the woman's right to be a juror, on expanding the inheritance rights of women, etc. the arguments of both supporters and opponents of women's equality were actively expressed. The speech of Professor L.I. Petrazhitsky (*Л.И. Петражицкий*) at the meeting of the I State Duma is of considerable interest (to us). L.I. Petrazhitsky made an attempt to justify the need for equal rights for women and men in terms of state and public benefits. The speech of L.I. Petrazhitsky contains an important methodological conclusion about the discrepancy between the concepts of legal equality and actual equality of women and men. According to this scientist, the creation of a legal basis for equalizing women's rights with men's rights should be the first step of female emancipation. The reasons for this are the stereotypes that portray women as inferior. These stereotypes have been historically cultivated for centuries in the Russian legal consciousness.[17] However, it was idealistic to pin hopes on a legislator who, according to Petrazhitsky, should have taken the first step towards legal equality of the sexes. The idealism of Petrozhitsky's statements, in my opinion, was not justified due to the fact that the legislator cannot create law codes if these legal provisions are not in his mind, and if the legislator himself is not a supporter of equality of sexes.

The actual and legal inequality of women and men in Russia of the 19th and 20th century was determined by the state. It actively regulated this issue. The state, due to its class nature, had obviously created the conditions necessary to maintain inequality between women and men. For example, in the field of labour relations, it fixed the possibility of exploiting female labour, and only under the influence of a desperate workers' strike struggle, it slowly and reluctantly softened factory legislation, introducing restrictions on the use of female labour. In the field of property relations and political relations, we similarly see a certain direction in legal regulation, changes which occur exclusively under the influence of liberal and socialist circles, and, later, political parties. In particular, the liberal V. M. Khvostov (*В. М. Хвостов*) believed that the demands for women's equality, "were the main goal of the aspirations of the supporters of the women's movement," he included them in the General category requirements, defending human rights and dignity, as they indicated a genuine democracy was inconceivable without the participation of women in society. "If a woman is a person, if she is a person, then she should be a citizen and be able to use political rights to defend her interests."[18]

17 *Женский вопрос в Государственной думе: из стенографических отчётов*, Санкт-Петербург 1906, 33–35.

18 Вениамин Михайлович Хвостов, *Психология женщин. О равноправии женщин*, Москва 1911, 58.

In accordance with the legislation and existing customs of that time, women were restricted in their rights and freedoms to a much greater extent than men. The Russian concept of legal gender inequality was largely shaped by the European legislation based on the provisions of Roman law. At the same time, unlike Western European legislation, Russian civil laws established the principle of separate ownership of property by spouses. This distinction goes back to an earlier tradition that existed in Russia before the reception of Roman law through European law at the beginning of the 19th century. Separate ownership of property by spouses ensured a certain independence of married women in resolving property issues, and also did not make the husband the natural guardian of his wife. The institution of separate residence of spouses, provided for by the legislation of a number of European countries, was absent in Russian laws.

The legal status of women entering the civil service was regulated by the Charter on civil service (1896), which provided for benefits in the service and insignia for women who received ranks and titles. The exception were any rights and advantages represented by the public service, for example: advancement in rank and awarding orders. The rights and obligations of the lower categories of women employees (servants in institutions) were not defined by law. However, during this period women in public service were extremely rare, they only held lower positions in some institutions.

In the late 19th – early 20th century, due to the growth of industrial production and technical improvement of the working process, the proportion of female workers in factories, plants and craft workshops increased significantly. This led to a surge in interest in issues related to the protection of women workers' rights. There were no provisions for the leave for pregnant women, and no legal protection for mothers with young children in the Russian legislation. Russian legislation had not established support for women in their employment neither from the state, nor from the owners of factories and enterprises, as it was contrary to the interests of factory owners and factories that exploited women's labour as cheaper and did not want to incur additional social security costs. For example, at the factory of F. V. Samarin (*Ф. В. Самарина*), in 1850, the salary of male workers was from 40 to 50 rubles, women – from 20 to 30 rubles, children – 5–10 (for some – 15) rubles in silver[19]. Also, a number of laws of the late 19th century provided for the possibility of using the work of teenagers and women at night (with the permission for their presence given by factory owners, or with the permission by the Governor), as well as the use of overtime not stipulated in the contract in certain cases, such as

19 Государственный архив Ульяновской области – Ф. 866. – Оп. 1. – Д. 143. – Л. 11

accidents or an increase in demand ("enhanced receipt ... orders – before the fairs")[20]. These circumstances caused serious concern of progressive public figures and scholars in Russia at that time. I. I. Yanzhul, B. D. Belikov (*Б. Д. Беликов*), YA. L. Kantorovich stressed the need for legislative protection of the interests of working women.

At the beginning of the 20th century, in the conditions of revolutionary upheavals, the idea of granting women political rights became increasingly popular, and was actively supported by V. V. Vodovozov[21] (*В. В. Водовозов*), S. A. Kotlyarevsky[22] (*С. А. Котляревский*), L. I. Petrazhitsky[23], N. Rossov[24] (*Н. Россов*), V. M. Khvostov (*В. М. Хвостов*), and other lawyers.

4. EVOLUTION OF WOMEN'S RIGHTS IN THE 20th CENTURY

4.1. Women's Organizations of the 20th Century

At the beginning of the 20th century, the women's movement in the modern sense may be difficult to identify; however, the fact that a number of women's organizations existed, each of which focused on its rightful target, according to its ideological content and the principles that were laid down. Their very existence allows us to speak of / discuss the activities of women's organizations during the 1905 and 1907 revolutions as a new phenomenon in Russia – the "women's movement". However, due to its novelty, the women's movement is difficult to evaluate as a noticeable force in this period.

The concept of "women's movement" was formed in Russian socio-political journalism at the beginning of the 20th century. The history of the emergence and development of the Russian women's movement was revealed in the "Essay of the women's movement in Russia"[25] by Anna Shabanova (*Анна Шабанова*). Shabanova was a hereditary noblewoman, a student of Higher women's courses, the first female pediatrician, and,

20 *Полное собрание законов Российской Империи,* том 10, Санкт-Петербург 1893, 309–310.

21 Василий Васильевич Водовозов, *Всеобщее избирательное право и его применение в России*, Саратов 1905, 183–218.

22 Сергей Андреевич Котляревский, *Конституционное государство. Опыт политико-морфологического обзора*, Санкт-Петербург 1907.

23 Лев Иосифович Петражицкий, *О женском равноправии,* Петроград 1915.

24 Николай Россов, *О всеобщем избирательном праве / Всеобщее избирательное право*, Саратов 1905.

25 Анна Николаевна Шабанова, *Очерк женского движения в России*, Типо-лит. АО «Самообразование», Санкт-Петербург 1912, 32.

since 1889, the Chairwoman of the Russian Women's Mutual-Charitable society *(Русское Женское Взаимно-Благотворительное общество).*

Numerous women's organizations acted in the revolutionary conditions of 1905–1907. They played a special role in the evolution of gender equality. The Russian Women's Mutual-Charitable society, Union of women's equality, Women's progressive party and the League of women voters sent a joint delegation to the Commission of the Duma. They considered appeals and petitions that defended women's equality. The women organizations published and distributed speeches of deputies supporting the empowerment of women.

A Legal Commission was created in 1906 under the Russian Women's Mutual-Charitable society. Providing expertise of the legislation, this Commission identified articles that restricted women's rights. The result was the emergence of the Bill "on women's equality". The Bill aimed to change and add novelty to the laws. It was discussed at the meetings of the First State Duma in the framework of the civil equality problem.

4.2. Women's Rights in Russian Law Codes: Preparatory Works

The Bill "on women's equality" consisted of two parts. The first part contained a law of a general constitutional nature, abolishing the restrictions established by domestic legislation for women without a detailed and article-by-article list of them. In the second part, the list of articles of the current law subject to cancellation, addition and change was given, located in the volumes of the Code of Laws of the Russian Empire.[26]

In subsequent assemblies, the women's issue was no longer raised to this extent. In the context of the decline of the revolutionary situation, a full discussion of the drafted law on women's equality became impossible. With great difficulty, as a result of heated debates in the State Duma, it was possible to pass laws that only partially expanded the rights of women. However, these laws did not grant women equal rights with men. So, in 1909, the Law "On measures to prevent the sale of women for the purpose of debauchery" was adopted. It proscribed harsher punishments for immoral earnings. In 1911, while discussing the Bill on the election of district zemstvo deputies (уездных земских гласных), the III State Duma decided to grant women voting rights in the district zemstvos (уездных земствах), but without the right to be elected as chairmen and members of the Volost Council.

26 Светлана Вячеславовна Ворошилова, *Правовое положение женщин в России в 19 – в начале 20 века*, Саратов 2011, 33–34.

That same year, the Judicial Commission of the III State Duma adopted the Bill on the admission of women to the bar, which was being actively discussed from March to June 1912. The Bill "On the Desirability of legislative assumptions about giving females the right to be barristers" was adopted on third reading and transmitted to the Drafting Commission. The Bill was then transferred to the State Council, but it was dismissed in January 1913.

In 1912, the State Duma discussed and approved a Bill "On the extension of women's inheritance rights". On 3 June 1912, the Russian Emperor signed the Law "On the rights of inheritance by law, the will of women and the law of estates". It equalized women with men only in the succession of movable property. When it came to inheriting land property, the share of the sister compared with the brother made one seventh.[27]

In 1914, the State Duma of the fourth convocation made a number of amendments to the marriage legislation, which became the Law on 12 March, 1914 "On certain changes and additions to existing laws on personal and property rights of married women and on relations between spouses and children". Some personal and property rights of married women were legalized: the right to reject the husband's demands for a joint life if it "seems unbearable", the right to be freely bound by bills of exchange, and to receive a separate residence permit without the husband's consent. Married women who lived separately from their husbands no longer required the husband's approval for private or public work or to enter educational institutions.

The government did not view the problem of gender inequality as a matter of primary importance. This conclusion can be drawn from the parliament preparatory work. Most of the Duma deputies did not consider it necessary to solve the problem of the female status immediately. Despite the progressive position of some Duma fractions and deputies, the legislators were not willing to solve the problem of legal regulation of the female status and gender inequality. Legislators were failing in their attempts to draft comprehensive laws protecting women's rights for 11 years (four convocations of the State Duma). They did not solve problems such as:

- granting women equal political and civil rights as men;
- improving working conditions for women;
- providing legal protection of motherhood and childhood.

The answer to the problematic question "Why has the State Duma failed to solve the problem of legal equality of women and men?" lies in the fact that the deputies of the State Duma could not come to a consensus

27 *Собрание узаконений и распоряжений правительства*, отд. I, № 107, Санкт-Петербург 1912, 914.

on gender equality. For example, representatives of the labor faction Anikin (*Аникин*), Zabolotny (*Заболотный*), Aladyin (*Аладьин*), Ryzhkov (*Рыжков*) and others spoke in favor of giving women political rights. "... I petition ... that the scope of the entire electoral right be specified precisely, so that it be indicated that it must be equal, direct, with secret casting of votes, and equal for all nationalities, for all religions and equal for both sexes" – Zabolotny proclaimed[28]. However, an opposing opinion was presented by the members of the "Union of October 17". Count Heiden (*Гейден*), speaking on behalf of this parliamentary group, insistently defended the position that it was untimely to endow women with political rights. And the main reason why the members of the State Duma could not make a noticeable contribution to improving the position of Russian women was that the legislative bodies of the Russian state at the beginning of the 20th century acted as carriers of patriarchal ideas regarding gender equality.

Russian legislation regulating the electoral process provides for the passive participation of qualified women in the conduct of elections. Until 1917, they were only allowed to transfer their votes by proxy to male relatives. The 1917 revolution had great influence on the evolution of women's rights. For several months of 1917, women were given the right to vote in the formation of local self-government bodies in accordance with the new laws on elections to Zemstvos and City Dumas of 1917. In the resolutions of the Provisional Government of 20 July, 1917, "On the approval of section I of the Regulations on elections to the Constituent Assembly", it was stated that "the Right to participate in the elections for the Constituent Assembly is enjoyed by Russian citizens of both sexes, who will be 20 years old by the election day, regardless of the property qualification".

5. THE LEGAL RECOGNITION OF GENDER EQUALITY IN THE 20th CENTURY: OVERCOMING THE GAPS IN RUSSIAN LAW CODES

The Bolshevization of the Soviets made it possible in September 1917 to approve the third (last) section of the Regulations on elections to the Constituent Assembly. According to this act, women were granted the same active and passive suffrage as men. Women's participation in the elections was characterized by their awakening to an active social and po-

28 Государственная Дума. Первый созыв. Сессия I. Заседание 004. 2–5. мая 1906. г.: Стенографический отчет, 143. [Электронный ресурс] «Научно-практическая электронная библиотека «Наука права»» URL: *https://naukaprava.ru/catalog/3355/335690/3356901/35998?view=1* [17.07.2020]

litical life. It brought an important socio-cultural shift in Russian society. Nevertheless, women candidates were very rare in the electoral lists. This situation indicated that the traditional Russian stereotypes which oriented women towards the family were still strong in the public consciousness, along with the public distrust in the ability of women to fully solve public policy issues.

After the victory in the October revolution of 1917, the Bolsheviks were able to consistently pursue a policy to "wake up" the social activity of women, to intensify their struggle for equal participation in public life – both in Russian society and in even more traditional communities in Central Asia, the Caucasus and other regions.

According to the Constitution of the RSFSR of 1918, suffrage was introduced for people of both sexes from the age of 18 (chap. 13, section 4) and in this constitution there was an important caveat: persons engaged in productive work were equalized with persons engaged in "housekeeping, providing for the former the possibility of productive work" (art. 64).[29] The problem, which is still relevant at the domestic level in a number of countries, was fundamentally solved by the Bolsheviks.

The Council of People's Commissars (*СНК РСФСР*) identified maternity protection (as a specific function of a woman) as a direct duty of the state. Also, in the 1918 Code of Civil Status, Marriage, Family and Guardianship Laws freed a woman and marriage from control by church organizations, introduced freedom of divorce, eliminated the differences between children born in wedlock and "illegitimate" children, and etc.

It was in the first Soviet government that the world's first female minister appeared – A.M. Kollontai (*А.М. Коллонтай*), a revolutionary, diplomat and activist of the women's movement of a Marxist direction, published in 1913 an interesting article, entitled "New Woman".

Further on, the issue of the legal status of women was discussed in the context of the civil war in Russia, and then in the extraordinary conditions of the Great Patriotic War. At that time, women actually took on male responsibilities as well as their own. As a result, women clearly demonstrated gender equality. At the same time, gender equality was ensured by the Communist Party. In Soviet Russia, women got a real opportunity to pursue their goals and interests on an equal basis with men in such spheres as education, science, medicine, etc. However, in the political sphere, in the

29 *Конституция (Основной Закон) Российской Социалистической Федеративной Советской Республики: Постановление 5-го Всероссийского Съезда Советов, принятое в заседании 10 июля 1918 г.*, Издание Петроградского Совета рабочих и красн. депутатов, Петроград 1918, 16.

sphere of government and industry, the percentage of women remained small. So, in rural councils and Councils of People's Deputies in 1934 there were 27% and 31% of women deputies, respectively, in 1937 in the Supreme Soviet of the USSR there were 16.5% of women deputies. Only by the 1980s did the number of women in government bodies become equal to the number of men. In particular, according to the Central Statistical Administration of the USSR, in the 1980s, the percentage of women in the Councils of People's Deputies reached 50%.[30]

The Russian Laws of the 1960s saw the overcoming of gaps in legal regulation of the position of women. The rights of women with children, pregnant women and women in childbirth have been greatly expanded. However, the Laws of the 1960s did not solve the female problems of household inequality, career opportunities and low wages. Therefore, the 1977 Constitution of the USSR proclaimed not only formal equality, but also brought a whole set of social guarantees that were designed to provide support for the roles and tasks that were seen as exclusively feminine. For example, article 35, Chapter 6 provided for: legal protection, material and moral support for motherhood and childhood, including the provision of paid leave and other benefits to pregnant women and mothers.[31]

The 1993 Constitution also proclaims gender equality (art. 19, chapter 2)[32]. However, unlike the 1977 Constitution, it only declares equality, while in real life, due to the lack of guarantees that should be provided by the state, women became one of the most vulnerable groups, open to exploitation of various kinds, including labour, sexual, etc.

The first Russian women's organizations of the 19th century, the populist and socialist movements ensured the penetration of the idea of gender equality into the legal consciousness of Russian society. However, despite the development of bourgeois relations, socio-cultural changes in Russian society, at the beginning of the 20th century the legal status of women remained traditional, inherited from patriarchal, pre-reform Russia. Gender equality in the political sphere was actualized against the background of the general politicization of Russian society in 1905–1907. The legal status of women had become a state problem at meetings of

30 Елена Михайловна Кочкина, "Представительство женщин в структурах власти России, 1917–2002 ГГ", *Гендерная реконструкция политических систем, СПб.: ИСПГ-Алетея*, Санкт-Петербург 2003, 991.

31 *Конституция (Основной Закон) Союза Советских Социалистических Республик: Принята на внеочередной седьмой сессии Верховного Совета СССР девятого созыва 7. октября 1977. года*, Политиздат, Москва 1978, 62.

32 *Конституция Российской Федерации: Принята Всенародным Голосованием 12. декабря 1993. года*, Издательство «Проспект», Москва 1993.

the State Duma – the first Russian parliament, the new legislative body of state power. However, as evidenced by verbatim records of the State Duma, the majority of deputies did not consider it expedient to extend universal suffrage to women. During the consideration of the judicial reform, the majority of deputies were against admitting women to the practice of law and granting them the right to serve as jurors. The deputies drew attention to the problem of prostitution: the Social Democrats proposed to study the main reason for prostitution – the oppressed economic situation of Russian women. But this proposal did not receive support in the State Duma. Thus, innovations in legal codes aimed at gender equality in Russia at the beginning of the 20th century are the result of a complex political confrontation between supporters of traditional patriarchal culture with social democrats, populists and other representatives of views new to Russian society. The legislator (the ruling class) had to make concessions under the pressure of persistent petitions, statements, and demands for "civil equality of the sexes".[33]

The Russian legal system traditionally includes two legal spheres: public law and private law. Analysis of civil (private) law of the 19th century allows determining the legal status of a married woman, as well as the hereditary rights of women as subjects of law. In the 19th century, the Russian legislator also singled out a woman as an individual subject of public law, gradually expanding her rights in the political and criminal spheres. At the same time, not only laws, but also customs played a significant role in shaping the legal status of women in Russia in the 19th and 20th century. This is because most Russian women lived in villages at the time and their lives were guided by the norms of customary law.

It is important to note that from 1930 to 1990 there was no private law sphere in Russia, since private property did not exist in the Soviet Union. During this period, individual property existed only in the form of personal consumer property. This affected the civil status of women, especially in matters of inheritance and property rights of married women. For the first time, the institution of private property was established by the law on property in the RSFSR in 1990[34].

33 Государственная Дума. Четвертый созыв. Сессия II. часть 1.: Стенографический отчет, 143. [Электронный ресурс] «Научно-практическая электронная библиотека «Наука права»» URL: *https://naukaprava.ru/searchpage?author=&name=Россия.+Государственная+Дума.+четвертый+созыв%2C+сессия+II%3A+Стенографический+отчет+заседание+025&text=&year_from=1910&year_to=1914&bibliorecord=&sort=&show=10* [18.07.2020]

34 Закон РСФСР «О собственности в РСФСР» от 24.12.1990 N 443–1. URL: *http://in.kodeks.ru/kodeks/* [23.07.2020]

CONCLUSION

The study concluded that in the 19th and early 20th century the legal status of Russian women was characterized by weak social and legal protection, lack of political rights, inability to pursue and use their professional knowledge. In general, legal support of the rights not only of women, but of all Russian citizens was not effective in the 19th and 20th century. These problems influenced the creation of the first domestic laws that distinguish women as individual subjects of law and provide for the gradual expansion of their legal capacity.

The main reason for the lack of gender equality in the 19th and early 20th century in Russia was the legislator, in whose legal consciousness there was no awareness of the need for full emancipation of women. It is not enough to fix equality of sexes in the law, until it has taken hold in the legal understanding of not only society, but also the legislator. Therefore, only after the February and October revolutions of 1917, the result of which was the coming to power of the Bolsheviks, did the legal status of women began to improve. Gaps in legislation were overcome, as the legislator not only established gender equality, but also established guarantees to maintain this equality, including positive discrimination. The Bolsheviks also eradicated the old views on the social, economic and political status of women in society.

The evolution of women's rights in Russia in the 19th and 20th century was a process of overcoming gaps in legal codes and ensuring legal equality.

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РУСКИ ЗАКОНИЦИ У XIX И XX ВЕКУ И ЖЕНЕ: ОД ПРАВНИХ ПРАЗНИНА И НЕЈЕДНАКОСТИ ДО ПРАВНОГ ПРИЗНАЊА И ПРАВНЕ ЈЕДНАКОСТИ

Сажетак

Чланак је посвећен главним проблемима у превазилажењу правних празнина у правима жена и потврђивању принципа једнакости полова у Русији од XIX до XX века. Историјски посматрано, правни статус жена у Русији био је уређен само у брачним, породичним и наследноправним односима. Међутим, у току периода обрађеног у овом раду, законодавац је обезбедио политичка права жена и признао жене као независне субјекте јавног права. Питање правног положаја жена у Русији је од скора добило не само теоријски, већ и практични значај. Његово проучавање је спроведено ослањајући се не само на научне чланке, већ и на правне изворе и историјске документе, попут: Збирке закона и наредби владе у Санкт-Петерсбургу, Декрета Привремене Владе од 20. јула 1917. итд. Аутор закључује да се еволуција женских права у Русији спроводила на оригиналан начин, иако је узимала у обзир искуство и законодавну праксу других држава.

Кључне речи: *Законодавство. – Права жена. – Правна еволуција. – Руска правна историја. – Правна једнакост.*

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